

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SHAW FAMILY ARCHIVES, LTD.,
BRADFORD LICENSING, INC., JAMES E.
DOUGHERTY, and VALHALLA
PRODUCTIONS, LLC.

Plaintiffs/Consolidated Defendants,

v.

CMG WORLDWIDE, INC. and MARILYN
MONROE, LLC,

Defendants/Consolidated Plaintiffs.

x

:

:

:

:

:

:

:

:

:

:

:

:

x

05 CV 3939 (CM)

Honorable Colleen McMahon

**DECLARATION OF TRACY BETZ
IN SUPPORT OF MARILYN MONROE, LLC's MOTION FOR SUMMARY
JUDGMENT ON COUNT II AGAINST SHAW FAMILY ARCHIVES, LTD.**

GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
47th Floor
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for Defendants/Consolidated Plaintiffs
CMG Worldwide, Inc. and Marilyn Monroe LLC

DECLARATION OF TRACY BETZ

I, Tracy Betz, declare and state as follows:

1. I am over 18 years of age and am competent and capable of making this declaration in support of Marilyn Monroe, LLC's Motion for Summary Judgment on Count II against Shaw Family Archives, Ltd. I am one of the lawyers representing Marilyn Monroe, LLC in this matter and am licensed to practice before all courts in the State of Indiana. The following facts are personally known to me and, if called as a witness, I could and would testify competently thereto.

2. On September 6, 2006, I purchased a T-shirt at a Target retail store on East Washington Street in Indianapolis, Indiana.

3. A picture, image and likeness of Marilyn Monroe was printed on the front of the T-shirt. A second picture of Marilyn Monroe was printed on the tag that was affixed to the T-shirt. The word "Marilyn" is printed on the front of the T-shirt under the picture, likeness and image of Marilyn Monroe. Likewise, the word "Marilyn" is written in cursive script on the tag that was affixed to the T-shirt. True and accurate photographs of the front of the T-shirt as well as the affixed tags are attached hereto as Exhibit A.

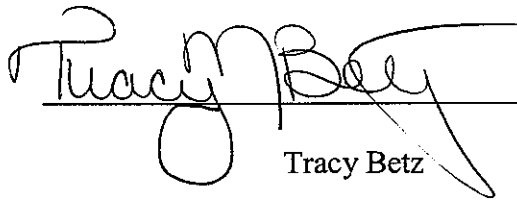
4. Furthermore, the words "Shaw Family Archives" and the name "Marilyn Monroe" are printed on the inside neck label of the T-shirt and the words "Shaw Family Archives" are printed on the back of the tag that was affixed to the T-shirt. True and accurate photographs of the inside neck label of the T-shirt and the back of the affixed tag are attached hereto as Exhibit B.

5. I paid \$9.99 for the T-shirt. A true and accurate photograph of the price tag for the T-shirt is attached hereto as Exhibit C. Also, a true and accurate copy of the sales receipt for

the T-shirt is attached hereto as Exhibit D. On the receipt, the T-shirt is listed as item number 016071969 "Vintage Tees," which sold for \$9.99. I have redacted my credit card information.

6. At the time I purchased the T-Shirt, there were many more identical T-shirts at the Target store available for sale to other customers, each displaying Marilyn Monroe's name, picture, image and likeness on the front, on the inside neck label, and on the tag. These T-shirts, too, had the words "Shaw Family Archives" printed on the inside neck label and on the tag that was affixed to the T-shirt.

I declare under penalty of perjury under the laws of the United States that I believe the foregoing is true and correct. Executed on this 28 day of September, 2006 in Indianapolis, Indiana.



Tracy Betz

100082059_1.DOC